This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 BOGOTA 002561

SIPDIS

STATE FOR USTR - TIFFANY SMITH, COMMERCE FOR ITA/MAC/WH AND COMPLIANCE CENTER

E.O. 12958: N/A
TAGS: ECON ETRD KIPR CO
SUBJECT: REGIONAL COLOMBIAN LIQUOR MONOPOLIES TARGET EACH OTHER

¶1. Summary. Emboffs made a recent visit to one of Colombia's regional "licoreras" to learn how these publicly held monopolies manufacture and distribute Colombia's favorite hard liquors, aguardiente (cane liquor) and rum. Emboffs also held a follow on meeting with the Executive Director of the National Association of Colombian Licoreras. These meetings confirmed many of the suspicions of American liquor exporters about the publicly held monopolies, and shed new light on the complex political and economic forces shaping the regulatory regime of liquor importation into Colombia. End Summary.

Visit to the Licorera

¶2. In late February, emboffs visited the "Empresa de Licores de Cundinamarca," the regional liquor monopoly for the department immediately surrounding and including Bogota. The visit to the physical production plant of Cundinamarca's Nectar Aquardiente and Ron de Santa Fe provided a fine display of the inefficient practices of a publicly held monopoly. For instance, the Executive Director of the National Association, Luz Maria Zapata, accompanied emboffs and the factory director on the tour. She mentioned on an aside that this was the first time she had seen the recently upgraded machinery in the plant. She asked the plant director if their efficiency had improved, to which he responded yes. Zapata then asked how many people had been fired as a result, and he responded none. He said that in fact, they were now cleaning the medium sized factory four to five times a day with all of the additional labor available.

¶3. It became clear in meetings after the factory tour that the chiefs of the licorera were not well informed on issues much beyond the actual production and distribution of their own line of products. This surprised emboffs, as concerns expressed by the Distilled Spirits Council of the United States (DISCUS) implied that the licoreras themselves have a regulatory role involved in the importation of liquors.

The Departments Pitted Against Each Other

¶4. At the follow-on meeting, Zapata was very open, and clarified a number of issues. She noted that the national laws concerning liquor importation delegate certain authorities to the Departmental Assemblies, not to the licorera monopolies. The rules allow the legislature of one department to exclude the liquor of another Colombian department. The decision making on excluding and targeting any liquor from outside the department is political--left entirely in the hands of the departmental government. The licoreras only produce and market their own product. The regions take great pride in their local liquors, but even more importantly, they aggressively protect the market against other Colombian departments. The tax revenues are used for social and educational purposes. In short, the discriminatory practices are more than just economic protectionism of inefficient monopolies.

¶5. The protectionism of the departmental governments also varies widely based on the attitudes and needs of the population. The government of Antioquia (which has Colombia's second largest city, Medellin) goes to great lengths to shut out any outside competition. Cundinamarca (which includes Bogota), on the other hand, is less aggressive about closing the market to competition, though national laws favor its rum over rival Ron Viejo de Caldas (see para 9).

How the Law Works

¶6. The two national laws relevant to liquor controls are Law 223 of 1995 and Law 788 of 2002. Law 788 supercedes Law 223, and contains three noteworthy aspects. First, it contains the devolution of power discussed above--giving the majority of power directly to the departmental governments. For example, it gives the departmental governments the authority

to test alcoholic content, bringing only disputes to the national government. The previous law maintained this authority for the national government, giving department governments only the authority to request testing when desired. Another example is the addition in Law 788 of the authority for departmental governments to place discriminatory controls like minimum amounts sold and contract taxes (participaciones) on all out of department liquors, whether they be of Colombian or foreign origin. The discriminatory concerns that the Distilled Spirits Council of the United States (DISCUS) has raised, such as the use of strip stamps by the regional governments, and requirements on minimum amounts sold, are thus better understood as aimed at inter-regional discrimination, not an attempt to specifically exclude international goods from the market.

¶7. Second, Law 788 gives special status to the islands of San Andres and Providencia, Colombia, islands situated off the coast of Nicaragua. They are popular resort destinations for Colombians, and constitute their own department. Law 788 explicitly exempts this department from consumption taxes on foreign liquors that are imported directly to the islands, without being nationalized on the mainland. Colombian liquors from other departments are subject to a greatly reduced tax, but are not entirely exempt like foreign liquors.

¶8. Finally, Law 788 imposes a discriminatory consumption tax regime based on alcohol content that appears to specifically target imports. The Law 233 tax regime mandated the following regime based on alcohol content:

--a 20 percent tax between 2.5 and 15 percent,
--a 25 percent tax between 15 and 20 percent,
--a 35 percent tax between 20 and 35 percent,
--a 40 percent tax in excess of 35 percent.

The new regime under Law 788 mandates this scheme, taxing each percentage point of alcohol content the following rate in pesos:

--a 110 peso tax between 2.5 and 15 percent,
--a 180 peso tax between 15 and 35 percent,
--a 270 peso tax in excess of 35 percent.

¶9. Aquardiente has a 29 percent alcohol content and Colombian rum has either a 35 percent or 40 percent alcohol content depending on the brand. (Note: Cundinamarca's Ron de Santa Fe conveniently has a 35 percent alcohol content, while rival Ron Viejo de Caldas has a 40 percent alcohol content. End Note.) Many of the most popular American spirits are above the 35 percent margin, and thus subject to a much higher tax rate than aquardiente and some of the popular rum brands.

Conclusions

¶10. The motivating force behind the monopolistic practices in Colombia include regional pride and competition as opposed to a concerted effort to guard the national market from imports. Nevertheless, the article in Law 788 that places a much higher tax on liquors with content over 35 percent does appear to be a direct attempt to exclude foreign goods from the market. Departments like Cundinamarca and San Andres Island offer a much better climate for liquor importation then departments like Antioquia. In the case of San Andres, the market is purposefully left open by national law, while in Cundinamarca, the popular rum brand is protected by the national law, but the local legislature has been less prone to use tactics like applying minimum amounts sold to protect the local market. The four major licoreras may all be inefficiently run monopolies, but they are very popular for the tax revenues they generate for social spending in the most populous departments. Executive Director Zapata argued Americans should pay more attention to the beer market. She claims that it is not the hard liquor sector that has the worst discriminatory practices, but rather the beer sector. Unlike hard liquors, she states, it is nearly impossible to find imported beer in all of Colombia. While emboffs have found foreign beer available in stores and restaurants, American beer is scarce in Colombia.
WOOD